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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,460	01/14/2002	Lee Edward Ciampi	ABINITI.001CP1	3155

20995 7590 07/10/2003

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EXAMINER

BOS, STEVEN J

ART UNIT	PAPER NUMBER
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1754

DATE MAILED: 07/10/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	10/047,460	Applicant(s)	Ciampi et al
Examiner	Steven Bos	Art Unit	1754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on Jun 4, 2003
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.
- 4) Claim(s) 1-3 and 19-36 is/are pending in the application.
- 4a) Of the above, claim(s) 19, 20, and 29-31 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3, 21-28, and 32-36 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) The translation of the foreign language provisional application has been received.

- 15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) Other: _____

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3,21-23,25-27,32-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Deininger '573. See the figure and col. 5 and the claims.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3,21-25,27,32-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson '994 in view of Deininger '573.

Johnson teaches the instantly claimed process as shown above but may differ in that it does not specifically teach delivering at least a portion of the ferrate to a site of use that is proximal to the mixing or reaction chamber.

Deininger teaches or at least suggests such delivering of at least a portion of the ferrate in the figure in a process of making a ferrate similar to that of Johnson.

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It would have been obvious to one skilled in the art to deliver the ferrate as taught by Deininger in the process of Johnson because each reference is directed to a similar process of making ferrates.

Claims 1-3,21-25,27,28,32-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mills '090 in view of Deininger '573.

Mills teaches the instantly claimed process as shown above but may differ in that it does not specifically teach delivering at least a portion of the ferrate to a site of use that is proximal to the mixing or reaction chamber.

Deininger teaches or at least suggests such delivering of at least a portion of the ferrate in the figure in a process of making a ferrate similar to that of Mills.

It would have been obvious to one skilled in the art to deliver the ferrate as taught by Deininger in the process of Mills because each reference is directed to a similar process of making ferrates.

Claims 1,3,21,22,27,35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison '553 in view of Deininger '573.

Harrison suggests the instantly claimed process in example 1 but may differ in that it does not specifically teach delivering at least a portion of the ferrate to a site of use that is proximal to the mixing or reaction chamber.

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Deininger teaches or at least suggests such delivering of at least a portion of the ferrate in the figure in a process of making a ferrate similar to that of Harrison.

It would have been obvious to one skilled in the art to deliver the ferrate as taught by Deininger in the process of Harrison because each reference is directed to a similar process of making ferrates.

Applicant's arguments filed June 4, 2003 have been fully considered but they are not persuasive.

Applicant states that Deininger does not teach or suggest using the ferrate at a site proximal to the generation site because the examples teach preparation of a dried crystalline product for long term storage.

However a reference is not limited to its preferred embodiments but may be used for all it fairly teaches or suggests. In this case Deininger takes the ferrate from the reactor and delivers it to a centrifuge which uses it to separate water therefrom as shown in the Figure. The centrifuge is a site that is proximal to the reactor.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

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THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Bos whose telephone number is (703) 308-2537. The examiner is on the increased flexitime program schedule and can normally be reached between 8AM and 6PM Monday through Friday. The FAX No. for After Final amendments is 703-872-9311; for all others it is 703-872-9310. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0661.



Steven Bos
Primary Examiner
Art Unit 1754